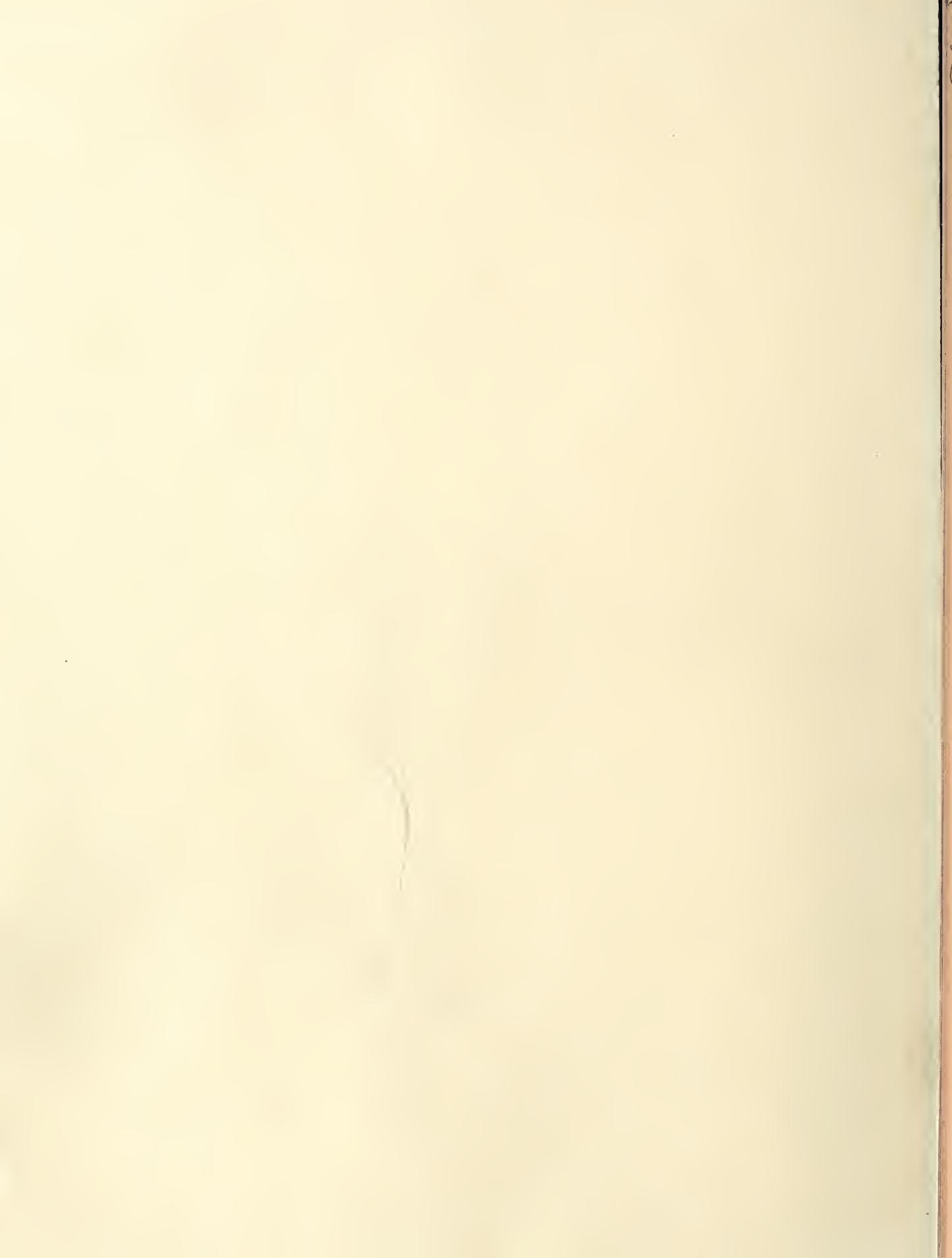


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### FEDERAL MILK MARKETING ORDERS

Federal milk marketing orders are part of the broad program of marketing agreements and orders authorized by the Agricultural Adjustment Act of 1933, as amended, and the Agricultural Marketing Agreement Act of 1937.

Like the agreements and orders in effect for various fruits, vegetables, and tree nuts, the milk marketing orders provide a means by which producers and handlers, with the approval of the Secretary of Agriculture, can develop and maintain orderly marketing conditions and reasonable prices for their product.

This cooperative approach to commodity marketing problems was recently re-emphasized and strengthened by the Agricultural Act of 1961.

Marketing order programs for milk and dairy products differ from those for commodity crops because of different marketing problems and because of the specific provisions included in milk orders to set minimum prices to handlers based on supply-demand conditions, and divide among producers the returns for their milk.

Milk is usually shipped to one consuming market, in which a relatively few organizations buy and distribute the bulk of the fluid milk. With commodity crops, there are many buyers, and the commodities are shipped to widely scattered markets.

In contrast to other marketing orders, regulations for milk orders involve classification according to use, and determination of minimum prices for the various uses. The price paid by handlers for milk for fluid distribution is set at a higher level than prices for other uses.

Another difference is that a milk marketing order is administered by a Federal milk market administrator appointed by the Secretary of Agriculture. With commodity crops, an order is administered by a committee or board appointed by the Secretary.

#### How a Milk Marketing Order Gets Started

An order is usually initiated by dairy farmers, through their cooperative associations, by petitioning the Secretary of Agriculture to undertake the regulation of prices paid by handlers to producers for milk in a local marketing area. Upon receiving such a petition, the Secretary asks the Milk Marketing Order Division of the Agricultural Stabilization and Conservation Service to make a preliminary investigation of the circumstances in the market which brought about the request.

If it appears from this investigation that conditions in the market make an order advisable, a notice of a public hearing is issued. At the hearing, producers, consumers, milk dealers, and any other interested parties are given an opportunity to present facts, to give their reasons on whether or not a Federal milk marketing order is justified, and to state their views on the provisions set forth in a proposed marketing order. At the close of the hearing, a reasonable time is fixed within which interested parties may file briefs.

After these preliminary steps, a recommended decision is issued by the Department of Agriculture. This decision is based on the evidence presented at the public hearing. If an order is recommended, the decision contains a statement of the reasons for issuing it. It sets forth a proposed order and gives reasons for the order's various provisions.

A period of time (usually about 20 days in the case of new orders) is allowed for interested persons to review the recommended order and to file exceptions to it as a whole or to any of its provisions.

The exceptions are then reviewed by the Department of Agriculture and such changes made in the proposed order as seem necessary or desirable in the light of the exceptions on the basis of the record evidence. A final decision and proposed final marketing order follow. The order is presented to the dairy farmers supplying the marketing area for a vote in a referendum. The law requires that at least two-thirds (three-fourths under certain conditions) of the producers voting in the referendum must approve the final order before it may be made effective.

All these steps are taken because the producing and marketing of fluid milk in highly populated areas is a complex and vitally essential business which significantly affects not only dairy farmers and milk dealers but the general public as well. If the Federal Government is to regulate the process by which milk is purchased from producers, democratic procedures require that protection be given to all affected groups. In order to give this protection, the four procedural safeguards outlined above -- hearing (after due notice), recommended decision, final decision, and producer approval by a large majority before an order can be made effective -- are viewed as necessary.

How the Secretary Decides Whether an Order is Needed

The Secretary of Agriculture bases his findings on the facts and views presented at the public hearing. Witnesses at the hearing must therefore be prepared to enter into the record adequate and well-prepared evidence

as to the facts and conditions that gave rise to the petition for an order. This kind of evidence usually requires the services of experts in marketing, production economics, and statistics.

Moreover, when a petition is made to the Secretary to set up an order in a market which has not previously been under regulation, a proposed order must be submitted. A proposed order must set forth in detail all the terms and conditions which are thought to be necessary or desirable for inclusion in the final order.

This detailed groundwork in preparation for a hearing is essential because a milk marketing order is a legal instrument, designed to regulate effectively a highly organized industry, and its strength depends on the soundness of the evidence presented in support of it at the public hearing.

It is not possible prior to the public hearing for ASCS's Milk Marketing Orders Division to obtain directly (through its own personnel) all the background facts and data needed to draft a proposed order for a new market area. The Division does advise regarding the types and kinds and sources of data needed, but expert non-government help is always necessary to assist in setting up an adequate basis for a Federal marketing order.

The time between the receipt of a petition for an order and issuance of the order varies greatly. It depends on the accessibility of needed information, the complexity of the problems to be dealt with, and the adequacy of the proposed order accompanying the petition. Even under favorable circumstances, however, the procedures which the Secretary must observe are such that an order generally cannot be issued in less than 9 months after receipt of a petition.

How the Orders are Operated

The milk order program is designed to accommodate Federal controls to the marketing system. One of the features of the program is the fact that an order ordinarily is issued at the request of interested persons and that its issuance must be approved by at least two-thirds of the producers whose milk is marketed under the program. Three-fourths of the producers must approve when payment is through an individual handler pool. This means that an order cannot be imposed by the Government unless a majority of the producers believe that an order is needed. Similarly, to continue in operation, the order must have the continuing support of the producers in the marketing area.

Producers, however, cannot dictate the terms of the marketing order. The law requires that an order be drawn on the basis of the facts presented at the public hearing and that it be in the public interest. So producers are given an opportunity to approve only a complete order which has been determined by the Department of Agriculture to be equitable to all -- the consumer, the milk handler, and the producer.

Evidence in the public hearing record is the only information the Secretary of Agriculture may use in making a decision, and he must set forth in a published document the findings and reasons upon which he bases his decision. Legal rights of milk handlers are protected by a special appeals procedure specified in the law.

This public participation builds and maintains confidence in the program and provides the public with a knowledge of its purposes and its operation.

Another significant feature of the milk order program is that terms and provisions to regulate the minimum prices handlers must pay producers on milk purchased for sale are specified by legislation. Payment is on a classified price plan according to milk use, differentiating between fluid milk use and manufactured product use. All milk sold in the prescribed marketing area is subject to the regulation. This is designed to remove the threat that any one dealer may disrupt the market through unfair advantage in the purchase of milk which will in turn permit him to sell at an advantage.

The authority to regulate is qualified by a provision in the law that the marketing order program may not prohibit the marketing of milk produced anywhere in the United States.

The terms of each order are carried out in the locally regulated market by a Federal milk market administrator appointed by the Secretary of Agriculture. The administrator may be responsible for more than one order and marketing area.

The administrator is authorized to check the weighing and testing of producers' milk and is required to audit the books and records of handlers to verify their reported receipts of milk from producers and use of milk in each class, as well as payments to producers. Since the producers' returns are set by both the class prices and the relative amount sold in the various classes, the benefits of the marketing order program depend upon the accuracy of these handler's reports.

The reports needed in administering a milk marketing order provide a continual source of complete and accurate information on the supplies and sales of milk in the regulated market. This information is a basic necessity

for a stable and orderly market and helps both producer and handler make judicious marketing decisions.

How the Orders are Changed to Meet Changing Conditions

Anyone affected by a marketing order may propose changes or improvements. These proposals are then studied by USDA and -- if they seem within the statutory authorization and appear feasible -- a hearing is called. The amendments in the order are based on the Secretary's finding on the record taken at the hearing. Changes most frequently made are those affecting the pricing of milk; others may concern, for example, the impact of the recent widespread shift from the delivery of milk by producers in cans to bulk tank handling.

The basic law providing for marketing orders is flexible enough to provide for changes in the orders to meet changes in marketing conditions. Thus, whenever there is the possibility of improvement, or changing circumstances require it, milk marketing orders may be changed by amendment.

Approximately the same procedures are used in amending milk orders as are provided for in the issuing of original orders. There are instances, however, when -- because of emergency situations -- changes may be made on short notice.

How Orders May be Terminated

A milk marketing order must be rescinded when the Secretary of Agriculture determines that more than 50 percent of the dairy farmers who deliver more than 50 percent of the milk to the market favor the termination of an order. It also must be rescinded whenever the Secretary finds that an order either obstructs or does not tend to effectuate the declared policy of the Agricultural Marketing Agreement Act.

A Look Back

Marketing programs for various agricultural commodities (including milk), designed to stabilize market conditions and to improve returns to producers, have been carried on since the enactment of the Agricultural Adjustment Act of 1933. From May 1933 through December 1935 licenses for milk distributors were issued for 52 milk sales areas, 1 license for the national evaporated milk industry, marketing agreements for 15 milk sales areas, 1 marketing agreement for the national evaporated milk industry, and 1 marketing agreement for the national dry skim milk industry.

Up to February 1934, agreements and licenses for fluid-milk markets included, in addition to schedules of minimum prices to be paid producers, schedules of wholesale and retail distributors' resale prices. A change in policy which became effective in February 1934, through cancellation of all fluid milk marketing agreements, did away with the fixing of resale prices.

By the end of the year 1934, milk marketing licenses were in effect for 49 milk sales areas. Many difficulties were encountered in the development and operation of the milk marketing programs during those early years because the legality of those programs was not established in the courts. Following a decision of the Supreme Court which raised serious question with respect to the authority delegated to the Secretary of Agriculture under the terms of the Agricultural Adjustment Act, amendments to the Act were passed in August 1935. These amendments set forth specifically and in detail the provisions that the Secretary could utilize in regulating through orders, the marketing of milk. Any changes in the licenses would necessitate a reissuance of the program under the authority of the new amendments. Subsequent to these

amendments, licenses in 21 sales areas were terminated, succeeded by orders in a number of these markets.

By December 1936 the number of milk licenses had dropped to 18 and milk marketing orders were in effect in the District of Columbia; Dubuque, Iowa; Fall River, Mass.; Kansas City, Missouri; and St. Louis, Missouri. An order for Boston, Mass., issued earlier in the year, had been suspended on the basis of a court decision. Milk marketing agreements were made effective earlier in the year for Fort Wayne, Ind.; Topeka, Kansas; and Cincinnati, Ohio.

In 1937 the amendments to the Agricultural Adjustment Act issued in 1935 were reenacted with the addition of the supply-demand pricing standards for milk, and issued as the Agricultural Marketing Agreement Act of 1937. The Supreme Court later established the legality of most of the substantial provisions of orders in a decision issued in June of 1939. Since then, the number of orders has gradually increased.

#### A Look Ahead

About 45 percent of all the milk sold wholesale by farmers in the United States is now marketed under Federal milk marketing orders. During the fiscal year ended June 30, 1961, about 192,000 dairy farmers sold nearly 47 billion pounds of milk -- worth 2 billion dollars -- to handlers operating under marketing orders. These orders assured dairy farmers a uniform minimum price based on current supply and demand conditions; they assured the handler that he and his competitors were paying the same prices for their milk; they assured the consumer living in the regulated marketing area of a dependable supply of high-quality milk.

As of February 1, 1962, Federal milk marketing orders were operating in 81 milk markets in the United States. In 15 of these markets the orders had been in operation for more than 20 years.

Of significance in a look ahead is the fact that the Agricultural Act of 1961 authorizes the Secretary of Agriculture to consult with producers of farm commodities to develop new legislative proposals where they are needed.

Under this broadened authority, it becomes possible not only to extend marketing orders -- which have already assisted milk producers and those of other commodities in achieving better incomes through programs instituted by producers themselves -- to more commodities, but also to take a new look at the programs currently in operation.

FEDERAL MILK MARKETING ORDERS IN EFFECT FEB. 1, 1962

Appalachian	New York - New Jersey
Austin-Waco	North Central Iowa
Black Hills	North Central Ohio
Boston	Northeastern Ohio
Cedar Rapids-Iowa City	Northeastern Wisconsin
Central Arizona	Northern Louisiana
Central Arkansas	North Texas
Central Mississippi	Ohio Valley
Central West Texas	Oklahoma Metropolitan
Chattanooga	Ozarks
Chicago	Paducah
Cincinnati	Philadelphia
Clarksburg	Puget Sound
Colorado Springs-Pueblo	Quad Cities-Dubuque
Columbus	Red River Valley
Connecticut	Rockford-Freeport
Corpus Christi	San Antonio
Dayton-Springfield	Sioux City
Des Moines	Sioux Falls-Mitchell, S. D.
Duluth-Superior	South Bend-LaPorte-Elkhart
Eastern Colorado	Southeastern Florida
Eastern South Dakota	Southeastern New England
Fort Smith, Arkansas	Southern Michigan
Fort Wayne, Indiana	Southwest Kansas
Great Basin	Springfield, Mass.
Indianapolis	St. Joseph
Inland Empire	St. Louis
Kansas City	Suburban St. Louis
Knoxville	Texas Panhandle
Louisville-Lexington	Toledo
Memphis	Tri-State
Michigan Upper Peninsula	Upper Chesapeake Bay
Milwaukee	Upstate Michigan
Minneapolis-St. Paul	Washington, D. C.
Mississippi Delta	Western Colorado
Mississippi Gulf Coast	Wheeling
Muskegon	Wichita
Nashville	Wilmington, Delaware
Nebraska-Western Iowa	Worcester
Neosho Valley	Youngstown-Warren
New Orleans	

MILK MARKETING AREAS UNDER FEDERAL ORDERS AS OF FEBRUARY 1, 1962

